

## APPRAISING THE EUROPEAN NEIGHBOURHOOD POLICY: BACKGROUND, IMPLEMENTATION AND RECOMMENDATIONS

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**Abstract:** *The present article tackles the European Neighbourhood Policy (ENP) in the context of the European Union's Eastern neighbours – Ukraine, Moldova and Belarus. Reflected on the May 2011 Communication drafted by the European Commission and High Representative 'A New Response to a Changing Neighbourhood', the article focuses on the main steps of ENP's evolution, looking at the political and economic offer made to the partner countries, the state of the neighbourhood, the progress made in the ENP Eastern countries, the regional component of the policy.*

**Keywords:** *European Neighbourhood Policy, Eastern neighbours, Schengen, Belarus, Ukraine, Moldova, European Union, visa regime*

### Introduction

This article looks at the European Neighbourhood Policy (ENP) in the context of the European Union's Eastern neighbours – Ukraine, Moldova and Belarus. The article reflects on the May 2011 Communication drafted by the European Commission and High Representative 'A New Response to a Changing Neighbourhood', which reflects a longstanding debate on the need to refine ENP, boost its political and economic offer, provide better targeted funding and deliver a more differentiated policy.<sup>1</sup>

In terms of basic political and economic aspects of ENP the Communication highlights the following: Building 'deep democracy' as a prerequisite for further cooperation between ENP partners and the EU. This reflects a desire to re-

launch the drive for good governance in the region and tackle corruption. In this context the communication promotes the need for more partnership with societies and also supports the idea of creating a 'European Endowment for Democracy'. The Communication also restates trade and creation of DCFTAs as lynchpins of economic cooperation between the Eastern neighbours and the EU and expresses disappointment over consistently derisory results in this sector. The Communication recognises the high demands placed on ENP partners in DCFTA negotiations and therefore talks about various interim solutions and concessions to enhance trade.<sup>2</sup> The document goes on to stress the enabling functions of the Lisbon Treaty and especially the way in which its new provisions can ensure better coordination

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<sup>1</sup> European Commission and High Representative of the European Union for Foreign Affairs and Security Policy, Brussels, 25/05/2011 com (2011) 303, Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. 'A new response to a changing Neighbourhood', available at: [http://ec.europa.eu/world/enp/pdf/com\\_11\\_303\\_en.pdf](http://ec.europa.eu/world/enp/pdf/com_11_303_en.pdf)

<sup>2</sup> Ibid. p.10

for the EU to pursue its foreign and security objectives in the neighbourhood.

Conditionality as a means to foster democracy in ENP states through rewards and in turn to deny cooperation and EU funding for countries failing to deliver is a pronounced feature in the Communication. The more confident use of conditionality in ENP implementation potentially brings some substance to the 'more for more' principle. Significant emphasis is placed on mobility; by easing barriers for ENP citizens to work, study or visit EU states. This is seen as key to ENP's goal of nurturing people to people contacts, to benefit EU and ENP states economic and labour market needs and to curb irregular migration. The Communication envisages substantial steps forwards in this domain, recognising the claim made already in the 2007 Strategy Paper that 'Mobility is in itself a key foreign policy priority, as this is the prism through which the citizens of partner countries perceive the EU'.<sup>3</sup> This communication positively views the rolling out of further visa facilitation dialogues and development of more 'Mobility Partnerships' to facilitate the well-managed movement of people.<sup>4</sup>

Significantly, the Communication promotes regional partnerships '(...) by fostering regional cooperation and developing regional synergies and responses to the specific geographical, economic and social challenges of each region'.<sup>5</sup> This is the first time that such a bold statement has emerged on the need to differentiate more boldly between the East and the South. The Eastern Partnership is regarded as a success, which could be emulated in the South.

Relating to this is a call for more resources to be dedicated to areas and districts that lie beyond national capitals, including border regions. The communication recognises that such areas still suffer from the negative effects of the enlargement of the EU (something that ENP was supposed to help overcome), specifically the construction of the Schengen border and subsequent curtailment of cross-border socio-economic activities.

The Communication also proposes more money and a revamp of the ENP financing method. An examination of the Action Planning process is called for, to make timetables and deliverables more precise and focused on fewer priorities. This aims to satisfy partner's expectations that the EU should reward progress more speedily and equally, to allow the EU to detect back sliding from ENP states.

Finally, the Communication gives a nod to the European identities and aspirations vis a vis the EU of some of the Eastern neighbours by stating that the Eastern Partnership is based on the same principles of freedom, democracy, respect for human rights and the rule of law that are 'enshrined in Article 2 of the European Union Treaty and on which articles 8 and 49 are based'.<sup>6</sup>

Overall, the Communication makes a welcome contribution to the ongoing debate, but of course it does not constitute an instant recipe for a new ENP. History shows that there is always a gap between the far-reaching ambitions of Commission-led papers and what actually gets implemented. Input from EU member states, changing assessments of the performance

<sup>3</sup> Communication from the Commission A Strong European Neighbourhood Policy Brussels, 05/12/2007 COM(2007) 774 final [http://ec.europa.eu/world/enp/pdf/com07\\_774\\_en.pdf](http://ec.europa.eu/world/enp/pdf/com07_774_en.pdf).

<sup>4</sup> Ibid. p.11

<sup>5</sup> Ibid. p.12

<sup>6</sup> Ibid. p.13

of ENP countries and budgetary contexts temper initial perspectives. Nevertheless, this Communication gives a sense of the shape of things to come.

This article analyses the implementation of ENP vis-a-vis Moldova, Ukraine and Belarus (though the latter is not a full member of ENP). It asks what has been achieved so far and how should the policy be changed to better suit the job in hand. The article pursues this by looking at the broad theme of democracy and good governance as the 'big picture', alongside a consideration of the subject of mobility. With regards to the latter EU policy has aimed at: establishing negotiations between member states and ENP countries on ways to simplify / cheapen Visa acquisition for ENP citizens to enter the EU; involving, inter alia, Visa Facilitation dialogues, implementation of the EU Visa Code, reducing national variations in the issuing/refusal of Visas for ENP citizens and setting up Common Visa Application Centres in ENP-states (such as that in Moldova); establishing Re-Admission Agreements between ENP countries and EU states, which allow for the return of ENP citizens and other third country nationals, if they enter the EU irregularly; modernizing the border guard services of ENP states, including the adoption of the nascent EU Integrated Border Management model; calling for better demarcation of national borders in the Eastern neighbourhood and the use of proper national passports (rather than internal CIS travel documents); efforts at improving migration management capabilities and laws in ENP states.

## The Evolution of European Neighbourhood Policy

With the 2004 enlargement in sight, the Commission launched its 'Wider Europe: A New Framework for Relations with our Eastern and Southern Neighbours' Communication in March 2003, which sketched out the substance of a potentially bold new policy towards the soon to be neighbours. The subsequent European Neighbourhood Policy Strategy Paper was released shortly after the accession of ten new member states into the EU and saw that:

*The European Neighbourhood Policy's vision involves a ring of countries, sharing the EU's fundamental values and objectives, drawn into an increasingly close relationship, going beyond co-operation to involve a significant measure of economic and political integration. This will bring enormous gains to all involved in terms of increased stability, security and well being. (...). The next step could consist in the negotiation of European Neighbourhood Agreements, to replace the present generation of bilateral agreements (...).<sup>7</sup>*

Coincident with the 2004 Strategy Paper the Commission published a first set of Country Reports (CR), including those on Moldova and Ukraine. Both CRs stressed a lack of good governance and pervading corruption as roots of the problem. Subsequent Action Plans highlighted the jobs to be done in this area.

<sup>7</sup> Brussels, 12.5.2004 COM(2004) 373 final communication from the Commission European Neighbourhood Policy Strategy Paper, available at: [http://ec.europa.eu/world/enp/pdf/strategy/strategy\\_paper\\_en.pdf](http://ec.europa.eu/world/enp/pdf/strategy/strategy_paper_en.pdf) p. 5.

Ukraine's CR pointed to the shaky state of democracy and lack of good governance.<sup>8</sup> Judicial reform and efficiency was seen as lacking, with strong tendencies persisting for corruption and a general vulnerability of the judiciary to 'political interference'. The Country Report on Moldova cited that in the main, legal frameworks for democratic elections existed, and noted that elections have been judged as free and fair, albeit with irregularities, for example in the secrecy of voting, intimidation of opposition candidates, media bias and so on.<sup>9</sup> Like in Ukraine, corruption was viewed as entrenched and worsened by an inefficient judicial system. The CR cited low ethical and professional standards of public functionaries as contributing to this problem. The extent and entrenched nature of poverty was also seen as a strong contributing factor in this regard. The CR noted the sizeable negative economic and political implications stemming from the Transdnistria situation for the Moldovan state and modernisation efforts. This very brief synopsis shows ENP's emphasis on the installation of the rule of law and establishment of good governance, with a focus upon tackling corruption, civil service reform and securing positive electoral outcomes in line with OSCE and international standards.

The task of assessing the implementation of ENP in Belarus is not the same as it is for Ukraine and Moldova. Although Belarus is a recipient of ENPI funds, amongst other

streams, there is still no PCA in place and subsequently there is no Action Plan by which to measure implementation and to gauge the effects of the EU in the same way as ENP states. The ENPI country strategy paper for Belarus sees that: 'The long-term goal of the EU is for Belarus to become a democratic, stable, reliable, and increasingly prosperous partner with which the enlarged EU will share not only common borders but also a common agenda driven by shared values'.<sup>10</sup> EU policy remains on a two-track approach after the December 2010 elections. The soundings of a more robust stance from the EU can be witnessed in an Op Ed. written by the Foreign Ministers of Sweden, Germany, the Czech Republic and Poland, in which they argued: 'We must now deepen our engagement with the democrats of Belarus and those inside the government who disapprove of the fateful turn their country has taken. They must not be abandoned or betrayed as their country enters what might be a new dark era.'<sup>11</sup>

Over time ENP has been reconceived, grown in terms of membership and ostensibly 'strengthened', though the basic formula and procedure, namely the producing of country reports by the Commission, drafting of Action Plans by the Commission (in consultation with the ENP partner), monitored by annual progress reports delivered on country, sectoral as well as 'overall' bases has remained basically in tact. The 'strengthening' of ENP has arguably been manifest most

<sup>8</sup> Commission Staff Working Paper, European Neighbourhood Policy Country Report Ukraine (COM (2004) 373 final) Brussels 12.5.2004, SEC (2004) 566, available at: [http://ec.europa.eu/world/enp/pdf/country/ukraine\\_enp\\_country\\_report\\_2004\\_en.pdf](http://ec.europa.eu/world/enp/pdf/country/ukraine_enp_country_report_2004_en.pdf).

<sup>9</sup> Commission of the European Communities Brussels, 12.5.2004 SEC(2004) 567 Commission Staff Working Paper European Neighbourhood Policy Country Report, available at: [http://ec.europa.eu/world/enp/pdf/country/moldova\\_enp\\_country\\_report\\_2004\\_en.pdf](http://ec.europa.eu/world/enp/pdf/country/moldova_enp_country_report_2004_en.pdf).

<sup>10</sup> European Neighbourhood and Partnership Instrument Belarus Country Strategy Paper 2007-2013 and National Indicative Programme 2007-2011 p.5, available at: [http://ec.europa.eu/world/enp/pdf/country/enpi\\_csp\\_nip\\_belarus\\_en.pdf](http://ec.europa.eu/world/enp/pdf/country/enpi_csp_nip_belarus_en.pdf).

<sup>11</sup> Letter by Ministers of Foreign Affairs - Carl Bildt, Karel Schwarzenberg, Radek Sikorski and Guido Westerwelle, Lukashenko the Loser, The New York Times, 23 December 2010.

clearly in the EU's offer of a new generation of Association Agreements, replete with negotiations for DCFTAs for the Eastern neighbours, beginning with Ukraine and now Moldova.

Of course, the most significant development in this context has been the Eastern Partnership, which by definition stresses the notion of differentiation and importance of regionally-relevant policies and opportunities for the six partner states. Inaugurated in May 2009, EaP was driven by the perceived need to provide a dedicated framework to enhance relations with the Eastern partners. On the face of it EaP offers a number of innovations, both of a procedural and substantive nature. The initiative gains profile via biennial EaP summits, the first of which was held in

Prague in 2009. The structure of EaP also aims to bring coherence and attention to EU endeavours through thematic platforms: (i) Democracy and Good Governance (ii) Energy Security (iii) Economic integration and convergence with the EU and (iv) People to People Contacts. Flagship Initiatives also represent EaP's 'cherry on the cake' approach in the areas of Integrated Border Management (ii) Regional Energy Markets, energy efficiency and renewable energy (iii) SMEs (iv) Environment Policy (v) Diversification of the supply of energy (vi) Preparedness and Responses to natural and manmade disasters. Beyond this, EaP tries to reach the parts that ENP has not via the EURONEST parliamentary assembly, an assembly of regional and local authorities and the EaP Civil Society Forum.

**Table: The Evolution of ENP Strategies**

	2003 WIDER EUROPE PAPER	2004 STRATEGY PAPER	2006 STRATEGY PAPER	2009 EASTERN PARTNERSHIP LAUNCH	2010 / 2011 CURRENT REVIEW
<b>Impulses and Ideas</b>	Dealing with consequences of 2004 enlargement; and avoiding new dividing lines. 'Profiting' from Enlargement.	Applying the ideas of the Wider Europe Paper - defining the terms and scope of a new neighbourhood policy and its delimitation from enlargement	Strengthening the ENP' based on first review of Action Plans and ideas for the better implementation of ENP And Non – paper expanding on the proposals contained in the communication to the European parliament and the council on 'Strengthening the ENP' –'ENP - visa facilitation'	A 'step-change' in EU-Eastern neighbour relations. Bringing more differentiation and reward-based progress into ENP: ensuring 'more for more' Enhanced cooperation on bilateral and multilateral bases. Not to 'prejudice' future types of relations with the EU. Attempts to bring membership prospect into debate.	ENP needs to be reviewed; How best to implement ENP in a post-Lisbon context. Improving the functioning of the UfM and EaP. Thinking about funding modalities. Greater differentiation and delivering on a 'more for more' principle

<b>Innovation</b>	Describe the ways in which the EU and neighbours can profit from enlargement. Spell out EU's role in bringing stability/ security to neighbourhood	Detailing the membership, design and scope of ENP. Spelling out the method of ENP and rationale of bringing the Southern and Eastern states together	Strengthen ENP capacities and offers in specific areas: Trade and economic integration, mobility, 'people to people' and the EU's role in frozen conflicts. German input into strengthening the ENP and flowed into Commission Communication of December 2007 'A Strong European Neighbourhood Policy'	New Association Agreements, new Action Plans / Agendas. DCFTAs. Render ENP-East more effective and visible; regional initiatives; flagship projects. Mobility / visa liberalisation are key areas of activity. Integrated Border Management is a flagship activity.	Speaks of the most thorough review of ENP since its inception. Considers more East/South differentiation and different funding schemes – based on new indicators (?)
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### The State of the Neighbourhood

Since Ukraine, Belarus and Moldova were constituent parts of the Soviet Union they had roughly comparable starting points to develop their relations with the EU post-independence. Crucially, however, their paths of political and economic development, as well as their relations with the EU, diversified over the course of the subsequent twenty years. From a current vantage point, relations between the EU and Belarusian government rest upon mutual disavowal, whilst the position of top player in the region, which seemed to belong irrevocably to Ukraine, has arguably been stolen by Moldova. Though Moldova is still behind Ukraine in terms of negotiating an Association Agreement, there is a palpable sense in Brussels that Moldova has become

a model ENP-student by virtue of its proactive reforms across a range of policy areas, moves underpinned by a seemingly strong pro-EU domestic consensus.

What in general terms can be said about the implementation of ENP in the three target countries? What 'state' are the three neighbours in some five years down the line?

### Significant Wealth Gaps Persists

The region is still profoundly poorer than the EU. The wealth gap exceeds that which existed between the EU and Central European states in the 1990s; Moldova's GDP per capita equals only 9% of the average EU level, with figures for Belarus and Ukraine equalling 43% and 21% respectively.



**Table: GDP and Trade vis a vis the EU**

	Ukraine	Moldova	Belarus
GDP per capita Euros 2010 <sup>12</sup>	2,265	1,133	4,229
Trade	Ukraine's Trade Balance with EU27 EU share of total imports in 2009: 34%. <sup>13</sup> EU share of total exports 30.2% 2005 – 24% 2009. <sup>14</sup>	Moldova's Trade Balance with EU27 EU share of total imports in 2009: 43.6%. <sup>15</sup> EU share of total exports 38.7% 2005 - 52.4% 2009. <sup>16</sup>	Belarus' Trade Balance with EU27 EU share of total imports in 2009: 23%. <sup>17</sup> EU share of total exports 44.7% 2005 – 43.8% 2009. <sup>18</sup>

Minsk is apparently the regional leader in terms of playing economic catch-up with the EU, a situation explained though by Russian economic support. This stands in contrast to the apparent sluggish pace of change in Ukraine and Moldova where growth towards EU standards of wealth stand at 3% and 2% respectively.<sup>19</sup> This is interesting, because of all the Eastern neighbours (including the South Caucasus) the two more advanced ENP states have actually experienced the slowest economic growth vis a vis EU standards. In this context the question is whether DCFTAs can make a difference.

Despite some changes over recent years in the proportion of Ukrainian exports destined for EU markets, the EU27 remains

Ukraine's biggest single trading partner (29.3% of Ukrainian trade in 2009 was with the EU27), followed by Russia (25.4%) and then China, Kazakhstan and Turkey. Of course, if looked at another way, if all Commonwealth of Independent States are added together, the CIS grouping becomes the most significant trade partner for. Meanwhile, Moldova is the only one of the three states that has experienced marked growth in its export activity to the EU. In 2009 46.1% of Moldovan trade activity was with the EU27, compared with 14.5% with Russia. Belarus presents a different picture for reasons already noted; Russia remains the major trade partner, above EU27 (47.2% and 31.0% of Belarusian trade is conducted with these entities respectively).

<sup>12</sup> All figures, unless otherwise stated, come from

'Ukraine' [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113459.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113459.pdf)

'Moldova' [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113419.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113419.pdf)

'Belarus' [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113351.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113351.pdf).

<sup>13</sup> A jump to 37.9% is predicted for 2010Q3 'Ukraine, Main Economic Indicators'

[http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113459.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113459.pdf).

<sup>14</sup> 27.5% for 2010Q3 'Ukraine, Main Economic Indicators'

[http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113459.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113459.pdf).

<sup>15</sup> Projected 56% in 2010Q3.

<sup>16</sup> Projected in 2010Q3.

<sup>17</sup> Projected 21.8% in 2010Q3.

<sup>18</sup> Projected 26.3% in 2010Q3.

<sup>19</sup> Katarzyna Pelczynska Nalecz (2011) 'Integration or Imitation? EU Policy towards its Eastern Neighbours' OSW Studies, Warsaw, April 2011Pp.19-21.

### Fragile Democracies and Foreign Policies in Flux

The states in the EU's eastern neighbourhood are fragile democracies. Crucially, the democratic footing of the newly independent states in the 1990's was thwarted by protracted economic problems and instability associated with post-communist transformations,

ambiguous relations with Russia and in the case of Moldova by territorial conflict. This situation was not helped by the lack of a strategic foreign policy from the EU, which arguably let the region languish for at least a decade, which also shaped current foreign policies and led to a state of play where these three countries are caught, in varying degrees and intensities, between Russian and EU overtures.

**Table: Governance and Democracy**

<b>Current Government</b>	<p>UKRAINE</p> <p>Viktor Yanukovich won the 2010 Presidential elections, which were deemed free and fair.<sup>20</sup> Subsequently, however, authoritarian tendencies have returned and the legacy of the Orange Revolution seems to have evaporated.</p>	<p>MOLDOVA</p> <p>After a long period of post-communist authoritarian rule, punctuated by violent anti-government protests and stalemate in the electoral process in 2009/10 the Alliance for European Integration is now in power and a decisive focus on EU integration and democratisation has ensued.</p>	<p>BELARUS</p> <p>Lukashenko has been in power since 1994. The Presidential office controls all political institutions, and the electoral process. Lukashenko won the Presidential elections in December 2010 for the fourth time with a result of 80%<sup>21</sup></p>
<b>Appraisal of Democracy</b>	<p>Ukraine is a democracy, but does not function as one. The uneven application of the rule of law and weak judiciaries mean that the political system is corrupted for political / economic gain. Opposition forces exist in Ukraine, though as seen in the course of the demise of the Orange Revolution they are often disparate at steering the country in a democratic direction.</p>	<p>Democracy seems to have taken hold in Moldova and has brought a pro-European alliance to power. This rosy state of affairs should not be taken for granted, since the rule of law remains patchy and corruption pervades. The static situation in Transnistria hampers fundamental reform and state-building.</p>	<p>Despite some modest peaks in EU-Belarus relations over the past twenty years, the political system has not changed, indeed authoritarianism and repression of opposition forces has worsened over the course of the past year.</p>

<sup>20</sup> See Sabine Fischer 'Has the EU Lost Ukraine?', EUISS Analysis, February 2010, available at: [http://www.iss.europa.eu/uploads/media/Has\\_the\\_EU\\_lost\\_Ukraine.pdf](http://www.iss.europa.eu/uploads/media/Has_the_EU_lost_Ukraine.pdf).

<sup>21</sup> The Economist, *A nasty surprise in Belarus*, 29.12.2010, available at: <http://www.economist.com/node/17800131>.



The continued fragility of democracy in this region is manifest in elections which more often than not do not meet basic international standards, corruption remains endemic and a real block to processes of modernisation and effectiveness of opposition forces. Divisions persist between reform versus conservative forces; Westernisers and pro-Europeans versus pro-Russian elites and also between different ethnic, regional or language groups to

greater or lesser extents. Thus on key political questions the countries in the EU's Eastern neighbourhood present quite a different picture than East Central European states did prior to EU membership. Already by the early 1990's states like Poland and Hungary had become democracies, based on largely uncontested territorial integrity, clear national identities and on a course to 'return to Europe'.

**Table: The Conduct of Elections**

**Ukraine – Presidential Elections January/February 2010**

The 'free and fair' elections of 2006 were viewed as the democratic breakthrough in Ukraine. Four years later observers looked at the Presidential election of January 2010 for confirmation that democracy had taken firm root. Observers were not disappointed in this respect; the OSCE/ODIHR mission report saw that the election **'met most OSCE commitments and other international standards for democratic elections and consolidated progress achieved since 2004'**, though it was noted that the legal electoral framework needed to be reviewed.<sup>22</sup>

**Moldova – Parliamentary Elections November 2010**

Through much of 2009 and 2010 Moldova was locked in a political stalemate after Parliament was unable to elect a new President. This deadlock incited street-violence which was met with a government clampdown and threatened to put into relapse Moldova's relations with the EU. Early Parliamentary elections were subsequently held in late November 2010. In general the conduct of **the election was lauded by international observers, as meeting 'most OSCE and Council of Europe commitments'**. The principle negative comment was the need to 'strengthen public confidence in the democratic process'.<sup>23</sup>

**Belarus – Presidential Elections December 2010**

The EU viewed the election of December 2010 **a failure**. The OSCE noted that the actual voting process was good, but thereafter **the situation deteriorated**. The vote counting was judged as 'bad' or 'very bad' in almost half of the polling stations, carried out in an intransparent manner, with access by observers curtailed. Prior to the election Lukashenko was given the lion's share of airtime for campaigning, coverage of other candidates in the media was given mostly in a negative light.<sup>24</sup> It was reported that on election day some major internet sights were blocked alongside some social networking channels and opposition websites. In the course of the day a number of detentions, arrests and kidnappings were made.

<sup>22</sup> Ukraine Presidential Election 17 January and 7 February 2010. OSCE/ODIHR Election Observation Mission Final Report, Warsaw 28 April 2010.

<sup>23</sup> Republic of Moldova Early Parliamentary Elections 28 November. 2010 OSCE/ODIHR Election Observation Mission Final Report 26 January 2011.

<sup>24</sup> International Election Observation Republic of Belarus – Presidential Election 19 December 2010, OSCE/ODIHR Election Observation Mission Statement of Preliminary Findings and Conclusions.

Studies, Warsaw, April 2011Pp.19-21.

Though the methodology of indicators relating to corruption levels may be open to criticism, they do relate a palpable lack of change in the governance area in the region, as detailed below. As was hinted at in ENP progress reports, and confirmed in the May 2011 Communication, corruption remains entrenched and according to indicators the

situation has become markedly worse in Ukraine and Moldova. Perceptions of the governments' ability to tackle corruption are also very low, indicating quite meagre public confidence in their governments. One might conclude then, that ENP has been rather flaccid at tackling this particular problem.

**Table: Corruption and the Rule of Law**

ENP STATE	Transparency International CPI <sup>25</sup> Score	CPI Rank out of 178	Freedom House Civil Liberties scale of 1-7 (7 = worst) <sup>26</sup>	World Governance Indicators (World Bank) 2009 (rank 0-100)
Ukraine	2.6 (2005) 2.2 (2009) 2.4 (2010)	99 (2006) 134 (2010)	2 (2005) 2 (2009)	Voice and Accountability <sup>27</sup> 47.4 Rule of Law 26.4 Control of Corruption 20.4
Moldova	2.9 (2005) 3.3 (2009) 2.9 (2010)	79 (2006) 105 (2010)	4 (2005) 4 (2009)	Voice and Accountability 38.9 Rule of Law 39.2 Control of Corruption 26.2
Belarus	2.1 (2006) 2.5 (2010)	151 (2006) 127 (2010)	6 (2005) 6 (2009)	Voice and Accountability 7.1 Rule of Law 18.9 Control of Corruption 23.3

**Table: Foreign Policies and Geopolitics**

Neighbours and Borders	UKRAINE Borders with Russia, Belarus, Moldova, Romania. Schengen states: Hungary, Slovakia, Poland	MOLDOVA Borders with Romania, Ukraine. Schengen states: none (until Romania joins Schengen, probably in 2012)	BELARUS Borders with Russia, Ukraine, Schengen states: Poland, Latvia, Lithuania
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<sup>25</sup> Corruption Perceptions Index. Greece is the lowest scorer of the EU member states at 3.5.

<sup>26</sup> Freedom in the World Comparative and Historical Data, available at: <http://www.freedomhouse.org/template.cfm?page=439>.

<sup>27</sup> Voice and accountability captures perceptions of the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media. For all data see Worldwide Governance Indicators: [http://info.worldbank.org/governance/wgi/sc\\_chart.asp](http://info.worldbank.org/governance/wgi/sc_chart.asp).

<b>Strategies and Tendencies</b>	<p>A foreign policy balancing a recalibrated pro-Russian tilt alongside a recognition of the rewards to be reaped from allegiance to the West and cooperation with the EU. The fading of the Orange revolution in foreign policy terms has seen major steps forwards in Ukraine-Russia strategic relations.<sup>28</sup> Kiev's interest in the proposed customs union with Russia will prove to be a potent indicator of the Russia / EU balance in Ukraine's future foreign policy orientation.</p>	<p>The government in Chisinau is certainly pro-European. This is backed by a pro-EU population. Relations with the EU should persist in a positive direction as the coming year foresees progress in negotiations on a new Association Agreement, DCFTA and visa liberalisation. Moldova's relations with Romania and Russia have entered a quiet phase, though as regards the latter, deadlock in Transnistria remains.</p>	<p>Russia is the partner for Belarus in political, economic and security terms.<sup>29</sup> It is unlikely that this will change in the near future, at least from the perspective of Minsk. The EU will have to up the ante if any degree of change in the regime's openness is to occur. EU – Belarus relations have again hardened; one can expect a more punitive stance from the EU vis a vis the regime in Minsk.</p>
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### Progress in the Mobility Area

Both Ukraine and Moldova have had Visa Facilitation and Readmission Agreements with the EU since 2008. In October the same year the European Commission launched a Visa Dialogue with Ukraine which focuses on four thematic blocks: document security including biometrics, illegal immigration including readmission, public order and security, and external relations. A similar dialogue began with Moldova in 2010.

A tangible sign of success in this sphere came in November 2010 when the EU offered Ukraine an Action Plan on Visa Liberalisation (VL), signaling the start of the 'operational phase' of the ongoing Visa Dialogue. A comparable offer was made to

Moldova in January 2011. The significance of such steps is high. To begin, though they do not hold out a clear promise or road map to Visa-free travel, it is regarded as a long term goal. This commitment from the EU seemingly goes a long way in meeting the objectives of Ukraine and Moldova who have both positioned visa-free travel into the EU for their citizens as a priority for some time. The Action Plans on VL reiterate the main thematic blocks of the overall Visa Dialogue, but also bring in new components, with a stronger emphasis on verification and implementation.<sup>30</sup>

The fact that this point has been arrived at is positive evidence of a level of success in the implementation of the relevant portions of the ENP agenda. In particular it is recognition of progress in ENP partners'

<sup>28</sup> The Ukrainian government agreed to the extension of the agreement with Russia for the stationing of the latter's Black Sea Fleet as a quid pro quo for a renegotiation of key energy agreements.

<sup>29</sup> Eastern Partnership Community website: <http://www.easternpartnership.org/partner-states/belarus>.

<sup>30</sup> Marta Jaroszewicz 'The EU-Ukraine Action Plan on Visa Liberalisation: an Assessment of Ukraine's Readiness', available at: <http://www.osw.waw.pl/en/publikacje/osw-commentary/2011-01-17/eu-ukraine-action-plan-visa-liberalisation-assessment-ukraine-s>

efforts at bringing their policies and institutions up to EU-standards, especially in the area of border management. It is also a recognition that the Readmission Agreements are working properly.

Progress in the Visa area will depend on further progress in a wide range of fields. Crucially, corruption is perhaps the biggest and most fundamental hurdle standing in the way of progress and full implementation. As noted earlier, systemic corruption conjoined with weak judiciaries does not bode well for the fuller and complete adoption of the EU's requirements in this domain. The holding of expelled individuals and their correct treatment in line with human rights standards and document security are particular areas which can be vulnerable to corruption and mishandling. Fuller progress by neighbours and the EU's will to respond positively will also be shaped by better reform in the area of migration management.<sup>31</sup>

Though processes remain incomplete, national Border Guard Agencies are being reformed into professional agencies in line with EU standards. As from 2008 Ukrainian personnel were recruited through entry examinations and were given proper contracts and training, which was not necessarily the case before. Moreover, education and training systems were reformed rendering them compliant with EU core curriculum for border guard services.

In the case of Belarus, the most impressive area of activity has been in the Border Guard's adoption of new technologies for border management and surveillance, rather than reform of the

culture of the organization itself, as seems to be the case for Ukraine and Moldova. Vital to note is the fact that the military style structure and culture of the Belarusian border guard service has aided the efficient implementation of EU-funded projects in this area.

This article sees that the Visa Facilitation and Readmission Agreements with Ukraine and Moldova seem to be working and that under the new Visa Liberalisation Action Plans further progress can be made this year. Strides have also been taken forwards with the development of the EU Visa Code, which is seen to be having some positive practical effects, such as more fee waivers, shorter queues at national consulates in ENP states and degrees of streamlining and transparency in the visa-application procedure for ENP citizens. At the same time, the EU Visa Code isn't yet bringing in the level of standardization ultimately aspired too. National differences still persist, for example the new EU member states tend to issue the most short stay Schengen visas for ENP-East citizens. All in all, then, old patterns of visa issuance tend to persist. The intended effects of the Code and member states capacities to live up to it will take more time, consequently 'visa shopping' still occurs. The Common Visa Application Centre in Chisinau, opened in 2007 issues Schengen (short-stay) visas for Austria, Belgium, Denmark, Estonia, Finland, Greece, Hungary, Latvia, Luxembourg, the Netherlands, Slovenia, Sweden and Switzerland and is generally viewed as a successful model to emulate and to properly consolidate the EU Visa Code.<sup>32</sup>

<sup>31</sup> European Court of Auditors', 'The Effectiveness of EU Support in the Area of Freedom, Security and Justice for Belarus, Moldova and Ukraine', Special Report 9, 2008, available at: <http://eca.europa.eu/portal/pls/portal/docs/1/2362310.PDF>.

<sup>32</sup> The first EU "Common Visa Application Centre" opens in Moldova', IP/07/561, 25 April 2007, available at: [www.europa.eu/rapid/pressReleasesAction.do?reference=IP/07/561&format=HTML&aged=0&language=EN&guiLanguage=en](http://www.europa.eu/rapid/pressReleasesAction.do?reference=IP/07/561&format=HTML&aged=0&language=EN&guiLanguage=en).

## The Overall Score Sheet and Recommendations

The implementation of ENP in the East has had patchy effects. The condition of democracy is a major factor affecting the implementation of ENP and its overall success. Importantly, the persistence of corruption, weak legal and regulatory systems stymies the efficient implementation and monitoring of EU-sponsored projects. Coupled with this, the lack of an ENP end-game arguably undermines the effectiveness and reception of ENP in the region; without strong enough incentives, the types of painful and costly reforms that Central European states had to go through on route to EU membership may not be warranted as worth it in the eyes of elites in ENP partner states. Such an argument also rings true in the case of mobility. Though generally speaking it is now easier and cheaper for many Ukrainian and Moldovan citizens to acquire visas to travel to the EU it is still less complicated and less expensive for them to travel to Russia. Crucially, much of the EU's credibility in the region and effectiveness of ENP rests on a better offer from the EU for the mobility of ENP citizens through the softening of the Schengen border.

Reflecting upon the recent Communication and the analysis presented above, the following *recommendations* are presented.

### Tackling Corruption

Since good governance and the rule of law are central elements to the ENP mission, it stands to reason that the EU should develop more innovative ways of helping states to tackle corruption. Of course this is not at all an easy task, not least because governments themselves are sources of corrupt practices or are strongly

susceptible to its effects. ENP governments often have no vested interests in tackling corruption. Corrupt practices are often viewed in the neighbouring states as just the normal and regular ways of doing things, thus any changes to higher standards would require a thorough change of culture. The EU needs to be more exacting in spelling out what it expects of the neighbours in the area of tackling corruption, emphasising small steps rather than preaching about the superiority of EU standards. At the same time member states need to be realistic about how much change can be expected in the short to medium term. EU efforts should concentrate on building up national administrations from the bottom-up, via the training of young civil servants, for example.

### Organising ENP

A substantial part of the current debate on ENP concerns the balance between the South and the East. Though all eyes are focused on the South at present, democratic backsliding in Ukraine and the entrenchment of authoritarianism in Belarus shows that there is much unfinished work to be done in the East. As already noted the implementation of ENP over the past five years or so has issued patchy results all in all. A standard answer to this is that greater differentiation should be injected into ENP based on a greater division between the Southern and Eastern portions of the neighbourhood. However, this paper argues that a profound geographical split would serve to sever the EU as a whole from neighbourhood policy and as a consequence EU policy towards the neighbours would become parochial and subject to the often very specific preferences of sub-sets of member states with their geopolitical interests. In short, the wider strategic goals set out in

ENP (however imperfect and ill-defined they might sometimes be) would be lost. Where ENP needs to remain joined up is on tackling the 'big issues', namely democratization; installation of the rule of law; good governance, tackling corruption and so on. Coherent definitions, firm principles backed by funding dedicated to specific priorities within this area, which can be monitored and verified over time form a sound basis. Expanding the basis of the Governance Facility could be considered in this respect.

The key recommendation here is based on the idea that little can be gained by making such a clear and decisive division on a South/East axis. Instead, differentiation should be more graduated and be based on concepts of (a) regions and (b) on measures of performance.

(a) The UfM and the EaP have already brought elements of regionalism to ENP. New arrangements within ENP such as these and 'Macro-Region' initiatives such as the Baltic Sea Strategy or the new Danube Strategy can play a complementary role within and in service of the ENP. However, their emphasis and role should not lie in the creation of new institutional frameworks or secretariats that might overlap with existing structures, but should be project-oriented. The EaP provides a useful example with its emphasis upon regionally relevant Flagship Initiatives, such as those on energy security and border management. The key idea stressed here is that of relevance. Infrastructure, transport and environmental projects are the kind of areas where regionally focused projects within ENP could find currency in the South, where the UfM structure does not seem to deliver.

(b) Further on the issue of differentiation is the notion of creating mechanisms and opportunities for ENP states to take an accelerated rate of cooperation with the EU if they demonstrate a capacity to move along the reform track ('more for more'). The EU's offer, it seems, has not been strong enough to prize Belarus out of its isolationism and neither has it been entirely successful at mobilizing a generation of Ukrainian elites to stay on a Westwards course. Moldova presents a less negative picture, though at the same time Brussels should not take things for granted. More responsive mechanisms need to be in place to take forwards or pull back on the EU's offer in response to neighbours' performance. Enhanced mobility options, in the direction of more fee waivers, quicker application procedures etc. can play a crucial role here. Swifter movement and greater generosity in the DCFTAs is also an imperative in this regard.

### **Funding Regional Endeavors**

ENPI funding is overwhelmingly dished out on a country by country basis. This national focus mirrors the bilateral Action Plan-based design of ENP and should not be altered fundamentally. However, a bolstering of monies dedicated to multilateral/regional endeavors could help partner states deliver in such key areas as infrastructure, regional transport networks, cross border activities, border management and the like – all of which deliver security for both the EU and ENP states. At the moment one of the consequences of the design of ENP/ENPI is that peripheral areas of countries, and often border regions, are overlooked. Second, there are many missed opportunities for interregional cooperation. Where are the incentives for



mutual learning and sharing of information between Ukraine and Moldova on the implementation of their Action Plans, for example? A further comment on this issue relates to the particular case of Belarus. Due to its position as an ENP-outlier Belarus' funding is small compared to its neighbours and is aimed at socio-economic well-being and prioritises regional and local authorities. Belarus could gain significantly if a bigger proportion of ENPI funds were dedicated to regional/multilateral projects, which would boost security and sideline the central government – a key objective of EU policy.

These recommendations notwithstanding, it is the bilateral dimension of ENP/EaP which is most important for the Eastern neighbours and has the better potential to deliver results. The EaP's multilateral projects have the danger of delivering sub-optimal results since coordination and approval is required by all participating EaP states and it can not be guaranteed that all states will support all initiatives all the time. Crucially, the appetite for multilateral and regionally-based projects is not so high for Ukraine and Moldova, which as aspiring members seek to cut their own teeth with the EU. The task in hand therefore is to keep and strengthen the bilateral channels of ENP/EaP and at the same time think about optimizing a regional approach of relevance to the neighbours and to develop it in full consultation with them.

### **Belarus**

The EU should be bolder vis-à-vis Belarus. There has long been talk about a 'shadow' ENP Action Plan and the time might be right for bringing such a plan into the light, to spell out more courageously what the EU can deliver to ordinary citizens. Of course real change in Belarus will only

come about once the current regime is either driven out or demises. All the EU can do in the meantime is to continue to press on with its policies of sanctions and visa bans vis a vis the government and at the same time support forces for democracy and civil society. With a view to enhancing the mobility of Belarusian citizens and of giving them a positive view of the EU, easier and cheaper visa acquisition, as well as more scholarships could be a priority. A change in this respect could prove to be an important stimulus to enhance the EU's mission in this country.

### **Softening Schengen**

It was argued earlier that a commitment from the EU in terms of Visa Facilitation/Liberalization has become a key test of the EU's resolve towards the Eastern neighbours. At present the EU's borders remain hard-edged, but at the same time are perforated by the effects of visa facilitation agreements and by local border traffic zones (LBTZ), for example. This is not a bad start, but there is scope for more:

**(a) Local Border Traffic Zones:** In time the EU could extend the scope of LBTZs. At present such zones cover up to 30kms on either side of a border and are strictly implemented. However traffic is very much one-way. In one of the Polish-Ukrainian LBTZs mobility basically consists of local Ukrainian nationals crossing the border once a day selling two packets of cigarettes bought in Ukraine and then heading back having made a small income for a days work. In its current design it seems that LBTZs are not meeting their potential. Actively broadening the border zone, to say 50kms and providing special privileges for local SMEs to do business, as well as

incentives for student exchange LBTZs could play a security-building role based on socio-economic objectives across strategically important border areas.

**(b) EU Visa Policy Developments:**

These have led to steady positive changes in the facilitation of the issuing of Schengen Visas, in terms of easier and swifter delivery of results and easier and cheaper application procedures, as noted above. More multiple entry visas are being delivered for a basis of six months or more, and queuing times have been reduced and become more uniform across consulates to some degree. More fee waivers are being issued, but at the same time more people are opting to use external service providers to ensure swifter visa delivery, at a cost. Despite this, the perception remains that the EU practices a very restrictive Visa policy, which surely impinges upon the EU's notional role as a normative power. Based on this conclusion this paper recommends that the EU presses fast forwards with its efforts at visa liberalization with Ukraine and Moldova and as noted above, holds out the option for Belarusian citizens too. This need not be pursued in a grandiose way, but with clearly demarcated steps, such as issuing more multiple entry long term visas, establishing more common

application centres, or at least to think more creatively in this respect, also taking on board the need to address the lack of consular services in towns beyond national capitals and other major cities. Properly standardizing lists of required documents is also a must, since at present particularly on the questions of means to return home, the list of documents required is rather unspecific or open to interpretation.

**(c) EU Migration Policy** needs to figure more centrally in the development of ENP. There are a number of issues relevant here. The first is that EU member states need to launch a more rationale discussion about their immigration needs and to develop a European strategy on migration which does not cloak the issue as a security threat. In this way, the enlargement of mobility options for ENP citizens could proceed in a more constructive and informed way. Of course the ENP menu also has to address more squarely the root causes of migration from ENP states; people leave a country due to poverty or because of conflict or human rights abuses. To address these, the EU needs to enact a fairer trade policy, including a reform of the Common Agricultural Policy, and give more development assistance.

## ANNEX

*Table: EU Funding for the Eastern Neighbours 2007-2013*

Category	Funds	Example of Assistance
Total Amount 2007-2013	11.2 Billion Euros <sup>33</sup> - the 'financial envelope' of ENPI	For all ENP partners and Russia
Country Programmes - East	<p>2.51 Billion Euros</p> <p><b>Ukraine: 494 Million Euros<sup>34</sup> (2007-2010)</b>  <i>Priority areas democratic development and good governance 148.2 million euros (30%); regulatory reforms and administrative capacity building 148.2 million euros (30%); infrastructure 197.6 million euros (40%)</i></p> <p><b>MOLDOVA 209.7 Million Euros<sup>35</sup> (2007-2010)</b>  <i>Democratic Development and Good Governance 52.4 – 73.4 Million Euros (25-35%). Regulatory reforms and administrative capacity building 31.5 – 41.9 Million Euros (15-20%) Poverty reduction and economic growth 83.9-125.8 million euros (40-60%)</i></p> <p><b>BELARUS (2007-2011)</b>  An allocation of 20 Million Euros was originally set for 2007-2010, after advances in EU-Belarus relations in 2008 more funds were earmarked to bring the figure up to 46.7 Million Euros (which includes funds from the EaP Comprehensive Institution Building fund).<sup>36</sup> <i>Social and Economic Development (70%) Democratic Development and Good Governance (30%)</i></p>	Supporting states' implementation of political, governance, economic and social reform programmes in six ENP states, plus Russia.

<sup>33</sup> Regulation (EC) no 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:310:0001:0014:EN:PDF>.

<sup>34</sup> European Neighbourhood and Partnership Instrument Ukraine National Indicative Programme 2007-2010, available at: [http://ec.europa.eu/world/enp/pdf/country/enpi\\_nip\\_ukraine\\_en.pdf](http://ec.europa.eu/world/enp/pdf/country/enpi_nip_ukraine_en.pdf).

<sup>35</sup> European Neighbourhood and Partnership Instrument Republic of Moldova National Indicative Programme 2007-2010, available at: [http://ec.europa.eu/world/enp/pdf/country/enpi\\_nip\\_moldova\\_en.pdf](http://ec.europa.eu/world/enp/pdf/country/enpi_nip_moldova_en.pdf).

<sup>36</sup> European Neighbourhood and Partnership Instrument Belarus Country Strategy Paper 2007-2013 and National Indicative Programme 2007-2011.

Regional Cooperation - East	485 Million Euros	Regional Programme East funding includes support for cooperation between ENP countries and EU states and ENP countries on border, migration and asylum management initiatives and systems with the goal of establishing regional and sub-regional cooperation mechanisms (20-30% of Eastern Regional Programme funds).
Supra-Regional (For all ENP states)	1.23 Billion Euros <sup>37</sup>	
Cross-Border - East	423 Million Euros	Supporting cooperation between local and regional authorities on both sides of the EU's external border.
Governance Facility (GF)	350 Million Euros	GF funds awarded to those ENP states as reward for advances in the area of good governance (only for neighbours with actual Action Plans, thus Belarus is excluded). In 2008 37.23 million Euros of NIF monies were used to co-fund eight projects in the Eastern neighbourhood.
Neighbourhood Investment Facility (NIF)	700 Million Euros <sup>38</sup>	
Eastern Partnership	Additional funds of 350 Million Euros taken from the budget reserve. Plus 250 Million Euros advanced	

<sup>36</sup> European Neighbourhood and Partnership Instrument Belarus Country Strategy Paper 2007-2013 and National Indicative Programme 2007-2011.

<sup>37</sup> Of that 450 Million Euros reserved for the Neighbourhood Investment Facility.

<sup>38</sup> Added to this are contributions to the pot from member states.

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